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14 UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
16 WESTERN DIVISION

17 JESUS PIMENTEL, DAVID R.  
18 WELCH, JEFFREY O'CONNELL,  
19 EDWARD LEE, WENDY COOPER,  
20 JACLYN BAIRD, ANTHONY  
21 RODRIGUEZ, RAFAEL BUELNA,  
22 ELEN KARAPETYAN, and all  
23 persons similarly situated,

24 Plaintiffs,

25 v.

26 CITY OF LOS ANGELES,

27 Defendant.

Case No. 2:14-cv-01371-FMO (Ex)

**NOTICE OF MOTION AND  
MOTION FOR CROSS  
SUMMARY JUDGMENT OF  
PLAINTIFFS ON REMAND  
[FED.R.CIV.P. 56]**

**Date: October 28, 2021  
Time: 10:00 am  
Courtroom: 6D  
Hon. Fernando M. Olguin**

**Complaint Filed: February 24,  
2014**

**Trial Date: None Set**

1 TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF  
2 RECORD:

3 PLEASE TAKE NOTICE that on October 28, 2021, at 10:00 a.m., before the  
4 Honorable Fernando M. Olguin, United States District Judge, in Courtroom 6D of the  
5 above-entitled Court, located at the United States District Courthouse, 350 W. 1st  
6 Street, Sixth Floor, Los Angeles, California, 90012, Plaintiffs JESUS PIMENTEL,  
7 DAVID WELCH, JEFFREY O'CONNELL, EDWARD LEE, WENDY COOPER,  
8 JACYLN BAIRD and RAFAEL BUELNA (collectively "Plaintiffs"), will and  
9 hereby do move for an Order granting summary judgment in their favor against  
10 Defendant the City of Los Angeles ("the City" or "Defendant") on their 42 U.S.C. §  
11 1983 claim for damages and injunctive relief premised on violations of the Excessive  
12 Fines Clauses of the federal and California Constitutions. (Eighth Amendment of the  
13 United States Constitution and Article I, Section 17 of the California Constitution).

14 Plaintiffs' Motion is brought pursuant to Rule 56 of the Federal Rules of Civil  
15 Procedure and this Court's Order directing the parties to file cross motions for  
16 summary judgment. The Ninth Circuit in *Pimentel v. City of Los Angeles*, 974 F.3d  
17 917, 925 (9th Cir. 2020), in reversing and remanding this matter for further  
18 proceedings, stated: "[W]e cannot endorse the court's conclusion that the late fee  
19 does not constitute an excessive fine." Plaintiffs move this Court, based on the  
20 undisputed factual record presented by Plaintiffs, to find as a matter of law that the  
21 City's imposition of a \$63 (100%) late payment penalty for failure to pay the initial  
22 parking meter violation fine of \$63 within 21 days constitutes an impermissible  
23 excessive fine under both the United States and California Constitutions. The late  
24 fine is "excessive" because it is grossly disproportionate to the gravity of the offense  
25 (failure to pay a meter violation civil fine within 21 days).

26 Plaintiffs' Motion is based upon this Notice, the accompanying Joint Brief  
27 regarding the cross motions for summary judgment, the accompanying Joint  
28 Evidentiary Appendix, the Declaration of Donald R. Pepperman, Joint Statement of

1 Uncontroverted Facts, upon all the pleadings and papers that are on file in this action,  
2 and upon all oral or documentary evidence that may be presented at the hearing of  
3 this Motion.  
4

5 Dated: September 28, 2021

DONALD G. NORRIS,  
A LAW CORPORATION  
Donald G. Norris

8 WAYMAKER LLP

9 By: /s/ Donald R. Pepperman  
10 DONALD R. PEPPERMAN

11 *Attorney for Plaintiffs*  
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